

TO: Selected Service Agencies and Special Education Directors

DATE: August 24, 2010

FROM: Gary M. Sherman/Jill Weatherly, Office of Special Education

RE: Claims for Educational Services for Non-ward Students in Residential Settings for Other than Educational Reasons

As you are aware, during the last legislative session LB 1087 was passed. That bill amended portions of Neb. Rev. Stat. 79-215 dealing with the residency of students. Significant changes were made in the portion of the statute dealing with non-wards in residential settings.

If a student (who is not a ward) is residing in a residential setting which meets the requirements of 79-215 (10) (a) and the residential setting **does not** maintain an interim-program school or an approved or accredited school, the resident district must contract with the district in which the residential setting is located for the provision of all educational services unless the parent and district agree that the resident district can provide an appropriate education program for the student while the student is residing in the residential setting. If the resident school district and the school district in which the residential setting is located cannot agree on the amount to be paid, the Department of Education will determine the amount to be paid pursuant to 79-215 (10) (b). School districts will claim reimbursement for the educational services through the normal reimbursement process. If a school district pays the district in which the residential setting is located and it is later determined that a different district was the resident district, the resident district must reimburse the district, which initially paid, 110% of the amount paid.

If a student (who is not a ward) is residing in a residential setting which meets the requirements of 79-215(10)(a) and the residential setting **does** maintain an interim program school or an approved or accredited school, the Department of Education will reimburse the residential setting directly for the provision of educational services (including special education and support services). The amount of the payment will be determined pursuant to the average per pupil cost of the service agency. If the student is a student with a disability, the resident school district remains responsible for the student's Individualized Education Program (IEP).

Attached is a copy of 79-215 and a depiction of how the law was revised for the provision of services to students residing in residential settings for other than educational reasons. It is important that you carefully read Neb. Rev. Stat. 79-215 and not rely solely on the depiction or the above summary of the statute.

Reimbursement for non-wards placed for other than educational reasons in residential settings which do not maintain interim program school or approved or accredited school will be made to the student's resident public school district using the regular reimbursement procedures outlined in 92 NAC 51. Reimbursement for non-wards placed for other than educational reasons in residential settings maintaining an approved interim program or approved or accredited school will be made to the residential services agency by NDE following receipt of a claim for reimbursement. A copy of the claim form and the instructions for completing the form are attached. The start date is for students placed on August 1, 2010. Claims received prior to the 15th of each month will be processed that month. Claims received after the 15th of the month will be processed the following month. If service agencies maintaining an interim program school or an approved or accredited school have questions concerning the process for claiming reimbursement for educational services provided to non-wards in residential settings for other than educational reasons, please contact Jill Weatherly at 402-471-2471.

Attachments